

DIVISION OF LOCAL GOVERNMENT SERVICES

Local Finance Board Rules

Proposed Readoption with Amendments: N.J.A.C. 5:30

Authorized By: Local Finance Board, Matthew U. Watkins, Chair

Signature: _____ Date: April 9, 2003

Authority: N.J.S.A. 52:27BB-10, 52:27BB-30, 52:27BB-32, 52:27D-18, 40A:4-83, 40A:5-38, 40A:14-194, 40a:2-17(B) and 18, 40A:12-6, and P.L. 1998,c.45

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2003-216

Submit comments by August 1, 2003 to:

Patricia Parkin McNamara, Executive Secretary

Local Finance Board

Department of Community Affairs

PO Box 803

Trenton, New Jersey 08625-0803

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 5:30 will expire November 18, 2003.

The Board has reviewed these rules and has determined many of them to be necessary, reasonable and proper for the purpose for which they were originally promulgated. The Board has also determined that some of the practices and procedures that were in effect at the time of the last adoption of these rules have either changed, or are no longer necessary. Therefore, N.J.A.C. 5:30 is being proposed for readoption with amendments.

P.L. 1947, c.151, as amended, specifically N.J.S.A. 52:27BB-10, requires the Local Finance Board to promulgate reasonable rules and regulations for the interpretation and administration of State laws that are within the jurisdiction of the Division of Local Government Services in the Department of Community Affairs. These rules and regulations govern critical local government unit functions and practices including, debt activities, annual budgets, capital budgets and capital improvement programs, emergency appropriations, annual audits, accounting, financial administration, municipal port authorities and school bonds. The purpose of the rules, as set forth in N.J.S.A. 52:27BB-6, is to establish standards and procedures which assist local governments in maintaining fiscal integrity, and ensuring common accounting practices for effective self government.

Significant changes were made to the rules at N.J.A.C. 5:30 since the chapter was last readopted in May, 1998. The changes were as follows:

- Adoption of a new subchapter, codified as N.J.A.C. 5:30-13, Camden Financial Review Board, establishing procedures for the composition and operation of the financial review board for the City of Camden. The board was created to address Camden's fiscal distress and to oversee the City's annual budget, the issuance of debt, labor contracts and professional services contracts, and municipal expenditures. These rules were adopted on an emergency basis, effective August 13, 1998, upon acceptance for filing by the Office of Administrative Law. Concurrently, the rules were filed for readoption, effective October 12, 1998, in compliance with the normal rulemaking requirements of the Administrative Procedure Act.
- Several changes to the rules at N.J.A.C. 5:30 were made as a result of amendments to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the Public School Contracts Law N.J.S.A. 18A:18A-1 et seq., effective April 17, 2000. The amendments, as set forth in P.L. 1999, c.440, authorized the Director of the Division of Local Government Services, in consultation with the Commissioner of Education, to promulgate a common set of public contracting rules that apply to municipalities and boards of education alike. These rules were promulgated at N.J.A.C. 5:34. However, inasmuch as N.J.A.C. 5:34 also

contained rules which applied strictly to the fiscal affairs of local government units, those rules were moved to N.J.A.C. 5:30 and recodified as follows:

1. Effective December 4, 2000, N.J.A.C. 5:34-4, Change Orders and Open End Contracts, was recodified with amendments as N.J.A.C. 5:30-11. The amendments added provisions concerning the general application and compliance of the rules, and a definition for the term “chief executive officer.” In addition, sections of the rules pertaining to the reporting requirements for change orders that exceed the 20 percent limitation, and for certifying the availability of funds at the time of purchase, were also amended.
2. Effective December 4, 2000, N.J.A.C. 5:34-5, Certification of Funds and Applicable Accounting Procedures, was recodified with amendments and new rules as N.J.A.C. 5:30-5. The rule at N.J.A.C. 5:30-5.1, Emergency appropriations, was recodified as N.J.A.C. 5:30-3.6. A new rule was promulgated at N.J.A.C. 5:30-5.1, General authority, establishing that all agencies under the Local Budget Law and the Local Authorities Fiscal Control Act are subject to the rules in Subchapter 5. A new rule was promulgated at N.J.A.C. 5:30-5.2, Encumbrance systems, codifying and continuing the provisions of Technical Accounting Directive Number 1 issued in April, 1985, effective January 1, 1986. A new paragraph was added to the rule codified as N.J.A.C. 5:30-5.4 (formerly N.J.A.C. 5:30-

5.2), requiring that when a contract is issued as a purchase order, or as an amendment to a purchase order, the procedure for certifying the availability of funds shall be executed through the budgetary accounting encumbrance process, pursuant to the new rule at N.J.A.C 5:30-5.2.

- The adoption of new rules, codified as N.J.A.C 5:30-14, Emergency Service Volunteer Length of Service Award Program (LOSAP), effective January 16, 2001, providing tax deferred income benefits to active volunteer members of emergency service organizations.
- The adoption of new rules, codified as N.J.A.C. 5:30-15, Accumulated Absence Management and Financing, effective October 15, 2001, establishing practices that local government units must follow in managing and financing compensation for accumulated absence time for their employees. These rules were amended at N.J.A.C. 5:30-15.4, effective January 21, 2003, to set forth the duties and responsibilities of local government units to provide documentation in their possession to support an employee's request for accumulated absence payments.
- The adoption of new rules, codified as N.J.A.C. 5:30-16, Agency Communications With Local Units (GovConnect), effective April 15, 2002, requiring county finance officers, clerks to the Board of Chosen Freeholders, municipal finance officers, and municipal clerks to register with GovConnect to achieve the electronic exchange of information between the State, counties,

municipalities and other governmental agencies. These rules were amended, effective January 21, 2003, to add municipal tax collectors to the list of required registrants.

- The adoption of new rules, codified as N.J.A.C. 5:30-1.8, Use of Local Finance Notices, and 1.9, Electronic communications networks, effective January 21, 2003, governing the method and type of official communications used by the Local Finance Board and the Division of local Government Services in conveying information to local units that are subject to their oversight.
- The adoption of new rules, codified as N.J.A.C. 5:30-2.4, Form of Notice of Pending Bond Ordinance publication, effective January 21, 2003, creating two forms (Notice of Pending Bond Ordinance and Summary and Bond Ordinance Statement and Summary) that must be utilized by local units that choose to publish a summary form of bond ordinance.
- The adoption of new rules, codified as N.J.A.C. 5:30-9A, Disbursements Without Vendor Certification, effective April 21, 2003, establishing practices and procedures that local government units must follow when using procurement cards or electronic funds transfer for acquiring goods and services.
- The adoption of new rules at N.J.A.C. 5:30-17, Electronic Disbursement Controls for Payroll Purposes, proposed July 15, 2002 at 34 N.J.R. 2377(a), adopted

effective May 19, 2003 at 35 N.J.R. 2223(a), establishing standards for local units and school districts to follow when using third party disbursement services for the purpose of producing and disbursing payrolls.

In addition to the changes noted above, other changes to the rules at N.J.A.C. 5:30 were proposed, but have not yet been adopted. The pending changes include:

- Proposed amendment to the LOSAP rule at N.J.A.C. 5:30-14.49, proposed August 5, 2002 at 34 N.J.R. 2633(a), clarifying that the annual review of contractor administered LOSAP plans must be submitted to the Director, and that such reviews should not be part of a sponsoring agency's annual audit. A new rule is also proposed at N.J.A.C. 5:30-14.63, Salaried Emergency Service Employees and LOSAP Eligibility, proposed August 5, 2002 at 35 N.J.R. 2633, establishing that paid firefighters and emergency medical service employees of a sponsoring agency cannot serve as unpaid members if they perform the same type of services for which they are employed and paid to perform.

The following describes the content and composition of the rules at N.J.A.C. 5:30 by subchapter, and discusses amendments to the subchapter, if any, as proposed herein.

Subchapter 1 provides for the basic operation of the Local Finance Board, including its meeting schedule, outline of duties, hearing and determination practices, and

voting policies. Rules applicable to the availability and certification of forms required by the Board are also contained therein. Subchapter 1 also includes the new rules that were adopted at N.J.A.C. 5:30-1.8 and 1.9, effective January 21, 2003, which govern official communications used by the Board to convey information to local units that are subject to its oversight. An amendment to the subchapter is proposed at N.J.A.C. 5:30-1.1(e) to provide an e-mail address for obtaining information on the general practices and procedures of the Local Finance Board.

Subchapter 2 addresses the Local Bond Law, N.J.S.A. 40A:2-1 et seq., and includes various determinations made by the Board regarding interpretations of that statute concerning exceptions to debt limitation laws, handling of down payments for improvements, the use of capital improvement funds for preliminary capital expenses, and details relating to self-liquidating improvements and expenses for municipal utility operations. The subchapter also contains the adopted new rule at N.J.A.C. 5:30-2.4, effective January 21, 2003, which creates forms that must be used by local units that choose to publish a summary form of bond ordinance.

An amendment to Subchapter 2 is proposed at N.J.A.C. 5:30-2.2, Automatic waiver of appearance. The amendment applies to applicants seeking waivers of down payment for various State loan programs. The existing rule provides that applications for a waiver of down payment for the State Green Acres Program and the Transportation Trust Fund Authority Act do not require an appearance before the Board. The proposed amendment expands this list to include the New Jersey Historic Trust Revolving Loan

Fund, and the Unsafe Buildings Demolition Loan Fund. The Board appreciates that these loan programs are subject to the terms and conditions established by their respective funding sources, and that, as such, it would have little leeway to change those obligations. Therefore, an appearance before the Board is being waived. However, the Board retains the right to require such appearance, in instances where it is determined to be necessary.

Subchapter 3 contains the practices and procedures that are applicable to the municipal budget approval process, including the procedures for budget adoption, special circumstances regarding the examination of the budget, filing of amendments, and the requirement that municipalities prepare supplemental details of the budget for public use. Subchapter 3 also includes the rules that govern emergency appropriations. These rules, codified as N.J.A.C. 5:30-3.6, were contained previously in Subchapter 5, but were moved to Subchapter 3 as part of the recodification that was made, effective December 12, 2000, due to amendments to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq. No amendments are proposed for this subchapter.

Subchapter 4 sets forth the requirements that local units must follow in preparing and submitting capital improvement budgets. The rules include restrictions concerning bond ordinances, the content of a capital improvement plan and its relationship to the annual budget, and limitations for capital expenditures. An amendment to the rules at N.J.A.C. 5:30-4.4, Method of adoption, is proposed herein in order to reflect current practices with respect to using the Capital Budget and Capital Improvement Program

forms. As the Division no longer issues these forms, the rules were amended, accordingly.

Subchapter 5 includes the practices and procedures that must be followed by local units with respect to certifications of fund availability and accounting system requirements. This subchapter previously contained the rules governing emergency appropriations, which, as noted previously, were recodified as N.J.A.C. 5:30-3.6, effective December 4, 2000. The current rules at Subchapter 5 were previously codified as N.J.A.C. 5:34-5. Concurrent with the recodification, new rules were adopted at N.J.A.C. 5:30-1 and 2, providing the general authority for encumbrance accounting and certification of funds (N.J.A.C. 5:30-5.1), and continuing the provisions of Technical Advisory Directive No. 1 issued in April, 1985, effective January 1, 1986 (N.J.A.C. 5:30-5.2).

Several amendments to Subchapter 5 are proposed herein. They include amending the subchapter heading; amending the existing rules at N.J.A.C. 5:30-5.2; and amending the subchapter to include new rules at N.J.A.C. 5:30-5.6 and 5.7, applicable to fixed asset accounting and general ledgers, respectively.

The proposal to amend the heading of Subchapter 5 will accommodate the proposed amendments at N.J.A.C. 5:30-5.6 and 5.7. The amendment changes the subchapter heading from “Encumbrance Accounting and Certifications of Availability of

Funds” to “Certifications of Availability of Funds and Accounting System Requirements for Local Units.”

The proposed amendment at N.J.A.C. 5:30-5.2(a) will extend the requirement that local units that are subject to these rules must maintain an encumbrance accounting system for all funds, and not just the current fund. The word “all” was added to the text to underscore that this requirement is applicable to every Fund maintained by the local unit.

The proposed amendment at N.J.A.C. 5:30-5.2(a) negates the need for existing N.J.A.C. 5:30-5.2(b) and, therefore, that subsection is being deleted. Deletion of existing N.J.A.C. 5:30-5.2(b) is cause for recodifying N.J.A.C. 5:30-5.2(c) and (d), with N.J.A.C. 5:30-5.2(c) becoming (b), and N.J.A.C. 5:30-5.2(d) becoming (c).

Proposed new rule N.J.A.C. 5:30-5.6, Accounting for governmental fixed assets, establishes requirements for local units to follow in maintaining a fixed assets accounting and reporting system. The rule requires local units to establish and maintain a physical inventory of fixed assets of nonexpendable, tangible property as defined and limited by the U.S. Office of Management and Budget Circular A-87, Cost Principals for State, Local and Indian Governments, as amended by 62FR45934 (August 29, 1997), and published at www.whitehouse.gov/omb/circulars/a087/a087-all.html. The rule also codifies and continues the provisions of Technical Advisory Directive No. 2, issued April

of 1985 and effective January 1, 1986, and as amended by Local Finance Notice CFO 96-13.

The proposed new rule at N.J.A.C. 5:30-5.7, General ledger accounting systems, requires that all local units maintain a general ledger for the current fund and prescribes the contents of the ledger. The rule also codifies and continues the provisions of Technical Advisory Directive No. 3, issued April of 1985 and effective January 1, 1986.

Subchapter 6 includes the annual audit requirements for municipalities and counties. No amendments are proposed for this subchapter.

Subchapter 7 sets forth the rules governing the local examination process for local government budgets. An amendment is proposed at N.J.A.C. 5:30-7.5(a) that expands the list of criteria for determining if a budget qualifies for local examination. The amendment applies to local unit budgets that are not examined by the Director, and serves to assure the Director that those local units are fiscally sound.

Subchapter 8 contains rules that are applicable to the financial administration of local units. The rules relate to the use of data processing techniques for financial, revenue and property tax accounting; minimum surety bond coverage for tax collectors and municipal courts; guidelines for the receipt and custody of public funds; formal notice requirements in instances of prospective default of debt obligations; and “bank by phone” systems. An amendment to the rule at N.J.A.C. 5:30-8.5(a) is proposed to delete

the word “tax,” since property taxes are often paid in advance, in excess of the amount actually due. Tax collectors are encouraged not to accept more than the amount that is actually billed, but not more than is actually due.

Subchapter 9 promulgates the rules that local government units must follow when accepting credit cards, debit cards, and electronic fund transfers to collect local unit obligations. No amendments are proposed for this subchapter.

Subchapter 9A contains new rules that were recently adopted, effective April 21, 2003, to set forth the practices and procedures that local units must follow when using procurement cards or electronic fund transfers for the acquisition of goods and services. No amendments are proposed for this subchapter.

Subchapter 10 contains rules that relate to the financial practices of municipal port authorities. The rules cover the Board’s approval of an authority’s annual budget and of any debt that the authority intends to incur. No amendments are proposed for this subchapter.

Subchapter 11 contains rules that are applicable to the administration of contracts by local government units. These rules, which deal with change orders and open end contracts, were previously codified as N.J.A.C. 5:34-4, but were recodified to N.J.A.C. 5:30, effective December 4, 2000, as part of the recodification process that was prompted

by amendments to the Local Public Contracts Law and the Public School Contracts Law. No amendments are proposed for this subchapter.

Subchapter 12 contains rules relating to local unit budgeting and accounting procedures for Federal and State library aid. No amendments are proposed for this subchapter.

Subchapter 13 contains rules that govern the composition and scope of activities of Financial Review Boards. Heretofore, these rules were applicable only to the City of Camden and were promulgated specifically to address and ameliorate that City's fiscal plight. An amendment is proposed to extend the rules to any municipality whose fiscal condition is determined by the Director and the Board to be such, that fiscal oversight, in the form of a financial review board, is warranted. Accordingly, the word "Camden" was deleted from the subchapter heading, and the definitions of "Board" and "City" at N.J.A.C. 5:30-13.1, were amended to reflect this proposed change. All references to the "City of Camden" and/or to "City," as they appear throughout the subchapter, were replaced with the term "municipality" to make it clear that the provisions of the subchapter are applicable to any municipality whose fiscal affairs are under the jurisdiction of a financial review board. Lastly, an amendment is proposed at N.J.A.C. 5:30-13.4 to eliminate the reference to required due dates for providing recommendations for economic development, and for providing an assessment of a city's fiscal condition and progress to the Local Finance Board, the Governor and the Legislature. Since the due dates set forth in the rules have long passed, the rules are being amended to require

that such reports and assessments be submitted for the Board's review, as requested by the Director of the Division of Local Government Services.

Subchapter 14 contains the Emergency Service Volunteer Length of Service Award Program (LOSAP) rules, effective January 16, 2001. A proposal to amend N.J.A.C. 5:30-14.49, and to effectuate a new rule at N.J.A.C. 5:30-14.63 was introduced and published in the New Jersey Register on August 5, 2002 at 34 N.J.R. 2633(a). The Local Finance Board is still considering this proposal, and no further action has been taken to adopt these rules at this time. Consequently, Subchapter 14 is being proposed for readoption without change.

Subchapter 15 contains the Accumulated Absence Management and Financing rules, effective October 15, 2001, and as amended at N.J.A.C. 5:30-15.4 to clarify the duties and responsibilities of local government units in providing any documentation they may have in their possession to support an employee's request for accumulated absence payments, effective January 21, 2003. No amendments are proposed for this subchapter.

Subchapter 16 contains the Agency Communications with Local Units (GovConnect) rules that were promulgated, effective April 15, 2002, and as amended at N.J.A.C. 5:30-16.2 to add municipal tax collectors to the list of officials who are required to register for GovConnect, effective January 21, 2003. No amendments are proposed for this subchapter.

As the Board is providing a 60-day comment period for these rules, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption, and the proposed amendments, will ensure the continued fiscal integrity of local government units, including 566 municipalities, 21 counties, 296 local authorities and 186 fire districts. Failure to readopt these rules and the fiscal controls they impose might result in financial instability that would be detrimental to taxpayers and the general public.

Economic Impact

The readoption of these rules continue requirements necessary to ensure the fiscal integrity of local units and the appropriate management of public funds. Agencies affected by the rules include 566 municipalities, 21 counties, more than 400 local authorities and fire districts, and, in some cases, approximately 610 school districts. Given this rather extensive cross-section of agencies, the cost of adhering to these rules is difficult to pinpoint and is likely to vary significantly from one local unit to another. In some cases, the rules have become standard operating procedures and local units have been following them for decades.

The rules in Subchapter 1 govern the administrative practices of the Local Finance Board. The rules contain provisions that facilitate the exchange of information between the Board and local government units. Through the GovConnect technology, the Board is now able to interact with local officials immediately and directly. The use of GovConnect eliminates the time and cost that is typically involved in mass mailings, including staff time that is used to coordinate such mailings, and the costs associated with paperwork, envelopes, postage, etc. These rules also provide cost savings to local units.

The rules in Subchapter 2 include provisions that enable local units to publish a summary form of bond ordinance. This decreases the work involved in publishing the entire ordinance, providing a cost savings in the advertising expenses by the local unit. The amended rule at N.J.A.C. 5:30-2.2 extends a waiver of appearance before the Board to certain State loan programs, which may help to stabilize the Board's administrative costs, and eliminate any costs incurred by local units in connection with such appearances.

The rules in Subchapters 3 and 4 relate to the municipal budget approval process and have various cost implications. The rules reflect statutory provisions that require municipalities to publicly advertise the budget, hold a public hearing, have the budget reviewed and approved by the Director, and provide detailed information on all budget appropriations. Despite any local unit costs that are incurred due to compliance, these requirements are necessary in order to provide an orderly and consistent statewide process for budget adoption and compliance review.

The rules in Subchapter 5 establish procedures that local units must follow for fixed asset accounting systems and general ledgers. Adherence to these procedures requires the dedication of staff and time in order to identify and maintain records of all fixed assets, and to prepare and maintain a general ledger of all financial transactions. The cost to the local unit is likely to vary, depending on the number of fixed assets in its possession, and the number of financial transactions that occur on a yearly basis and which must be entered in its general ledger.

The rules in Subchapter 6 contain requirements for conducting a local unit's annual audit. They reflect historical statutory requirements relating to the preparation of an annual audit of all accounting records and financial transactions. The cost of compliance will be determined by the scope of a local unit's fiscal affairs, and the time and effort that is needed to reconcile them.

The rules in Subchapter 7 set forth requirements by which a local unit may examine and approve its own budget. The requirements include various procedures that must be followed by a local unit in the process. Various financial records and documents must be prepared, and the budget itself must be consistent in form and content with the requirements of the Local Budget Law, N.J.S.A. 40A:4 et seq., and the rules at N.J.A.C. 5:30-4 and 5. In terms of economic costs, the shifting of budget approval from the State to the local level is a tradeoff. While a cost savings may be realized by the State, that

savings will likely be replaced by any additional costs that might accrue to the local unit in reviewing and approving its budget.

The rules in Subchapter 8 regulate various practices relating to the financial administration of local units. They include surety bond coverage requirements for tax collectors and for the municipal court. While the bonds serve to protect public funds from possible theft or misuse, there are costs involved in procuring such insurance. Such costs will vary in accordance with the amount of the bond.

The rules in Subchapter 9 provide procedures for local units to follow in utilizing credit cards, debit cards and electronic fund transfers as a way of collecting local unit obligations. The rules have a positive impact on the day-to-day operations of the local unit. Electronic receipts may result in lower operational costs and improved efficiency. While local units may incur costs from service charges for handling electronic receipts, such costs are likely to be offset by the savings that are realized in using the electronic payment technology.

The rules in Subchapter 9A provide standards for local units to follow when using procurement cards and electronic fund transfers for the acquisition of goods and services. The rules will help to reduce costs involved in the purchasing process by in several ways. When procuring by P-card or through electronic means, less staff time is required in researching the details of purchases, seeking certification of vendors for small transactions, and following-up on poorly documented transactions. The reduction in time

should translate into a concomitant reduction in cost, and will allow the local unit's purchasing personnel to devote attention to other procurement matters.

The rules in Subchapter 10 establish procedures for municipal port authorities to follow in having their operating budgets and other financial matters reviewed and approved by the Local Finance Board. The readoption of these rules will have a minimal cost impact. Except for the time and cost that may be involved in preparing any supplementary documentation that the Board may require in conducting its review, the rules do not contain any provisions that add to the cost of normal budgetary practices.

The rules in Subchapter 11 apply to all local units that fall within the definition of "contracting unit," as that term is defined at N.J.S.A. 40A:11-2. The rules set forth requirements for contracting units to follow in preparing and implementing change orders for various types of contracts. There are no economic costs involved in complying with these requirements, beyond those relative to a contracting unit's normal record keeping practices. The rules essentially provide a system of checks and balances.

The rules in Subchapter 12 establish procedures that local units must follow in accounting for Federal and State library aid. The rules instruct local units on how such aid should be treated in the budget, and they impose no cost impact. If anything, the rules should deliver a nominal savings to the local unit because the direction they provide is specific and will help offset uncertainties as to how the funds should be budgeted, thereby enhancing efficiency.

The amended rules in Subchapter 13 establish procedures to be followed in organizing and operating financial review boards. The rules apply to fiscally distressed municipalities that are identified by the Director, the Board and the State Legislature to be in need of special State assistance. While they provide appropriate guidelines that will help to improve a municipality's financial status, various costs will be incurred by the State and by the financially distressed local unit in connection with organizing and operating the financial review board, and in preparing and implementing a financial plan.

The rules in Subchapter 14 set forth requirements for establishing and implementing Length of Service Awards Programs (LOSAPs) for volunteer firefighters and emergency service personnel. The rules are applicable to those local units who voluntarily choose to offer LOSAP benefits as a way of rewarding volunteer aid. There are various costs involved in compliance. Local units will incur added costs equivalent to the cost of the LOSAP. The maximum amount of the LOSAP per volunteer, as set forth in N.J.S.A. 40A:14-189, is \$1150 per year of active emergency service. The cost may be increased from time-to-time, pursuant to requirements set forth At N.J.S.A. 40A:14-185. Since LOSAPs are subject to public approval, any increase in a local unit's budget as a result of a LOSAP would have to be approved by the voters. In addition, the increase may necessitate an increase in the local tax levy and the tax bill of the average homeowner. However, any economic impact that is caused by the potential tax increase would be offset by the benefit of having an adequate system of emergency services in place to safeguard residents during times of crises. Moreover, the delivery of emergency

services by volunteer organizations precludes the need for full-time staff, thereby further offsetting any economic burdens to the community.

The rules in Subchapter 15 establish procedures for local units to follow in accounting for accumulated absences. Compliance should deliver a positive economic benefit. The rules allow local units to establish reserves for the payment of compensated absences. This also allows them to defray the costs over time, thereby reducing the fiscal impact on annual budgets and mitigating the impact on local taxpayers.

The rules in Subchapter 16 are applicable to GovConnect. GovConnect is an electronic initiative that is designed to facilitate intergovernmental communications between State and local governments. The rules governing GovConnect have a positive economic impact on several constituencies. For taxpayers and the general public, implementation of the rules will result in greater efficiency by local units in processing documents. This will reduce costs and, thereby, help to stabilize taxes. For local units, the rules enhance their ability to access documents and forms electronically, which also carries a cost benefit. For the State, the ability to rely on the electronic dissemination of official information means that staff will be less burdened with hundreds of thousands of paper mailings, thus saving taxpayer dollars in both labor hours and postage costs.

The rules in Subchapter 17 provide standards for local units to follow when contracting with an organization to make disbursements on the local unit's behalf, pursuant to N.J.S.A. 52:27D-20.1. These rules should have a positive economic impact

on local units. Although there is a cost involved in retaining a third party disbursement organization, the use of such organizations relieves the local unit of time-consuming and tedious work that is entailed in payroll record keeping. The savings in time and the possible reallocation of staff to other fiscal areas will provide for an economy of scale within the local unit that, most likely, will offset the cost consequences of hiring an outside firm.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not subject to any Federal requirements. The rules establish standards and procedures for maintaining the fiscal integrity of local government units and are predicated on State statutes that empower the Local Finance Board with fiscal oversight.

Jobs Impact

The rules proposed for readoption with amendments continue existing practices and, as such, will not result in the generation or loss of jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not affect the State's agriculture industry.

Regulatory Flexibility Statement

The rules proposed for readoption with amendments apply to local government units and do not impose reporting, record keeping, or other compliance requirements on small businesses, as that term is defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Smart Growth Impact

The rules proposed for readoption with amendments have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:30.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

5:30-1.1 Rules and regulations

(a)–(d) (No change.)

(e) Additional information on the Board and its practices can be obtained by contacting the Executive Secretary, Local Finance Board, 101 **South** Broad Street, PO Box 803, Trenton, New Jersey 08625-0803, (609) 292-4537, **or by e-mail at dlgs@dca.state.nj.us**.

(f) (No change.)

SUBCHAPTER 2. LOCAL BOND LAW

5:30-2.2 Automatic waiver of appearance

An appearance by the applicant before the Board for applications for the waiver of down payment shall not be required for the following State loan programs: Green Acres[,], **and the New Jersey Historic Trust Revolving Loan Fund in the** Department of Environmental Protection, [and Department of Transportation –] Transportation Trust Fund Authority Act **in the Department of Transportation, and the Unsafe Buildings Demolition Loan Fund in the Department of Community Affairs**. A full application with supporting documentation shall be required and a vote of the Board shall be taken. An appearance shall only be required when requested by the Board.

SUBCHAPTER 4. CAPITAL BUDGETS AND CAPITAL IMPROVEMENT PROGRAMS

5:30-4.4 Method of adoption

(a) (No change.)

(b) [The following is an] An amendment to the Capital Budget [and Capital Improvement Program] **must be approved by resolution of the governing body for the following:**

1. [Form CB1 (Capital Budget and Capital Program Amendment) is to be utilized for a] **To** change [in] priority of a specific project and use **such** funds for an unrelated project.
2. [Form CB2 (Capital Budget and Capital Improvement Program Amendment) is to be utilized for] **To fund** new projects not previously considered.
3. [Advertisement of either form CB1 or CB2 is not required if a] A copy of the ordinance authorizing the project [is submitted with amendment forms and] **must** contain[s] the following statement:

“The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of an inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services as on file

with the (municipal clerk) (Clerk to the Board of Chosen Freeholders) and is available for public inspection.”

4. [Forms CB1 and CB2, as appropriate,] **A certified copy of the resolution** shall be [prepared and] submitted in duplicate to the Director, Division of Local Government Services.

SUBCHAPTER 5. [ENCUMBRANCE ACCOUNTING, AND] CERTIFICATIONS OF AVAILABILITY OF FUNDS, **AND ACCOUNTING SYSTEM REQUIREMENTS FOR LOCAL UNITS**

5:30-5.2 Encumbrance systems

(a) All local units except those subject to the Local Authorities Fiscal Control Act (N.J.S.A. 40A:5A-1 et seq.) shall maintain an encumbrance accounting system for [its current] **all funds** as follows:

1. – 3. (No change.)

[(b) Systems similar to those described in (a) above, appropriately adapted to meet local needs, shall be used for capital, trust, and utility funds.]

Recodify existing (c)-(d) as **(b)-(c)** (No change in text.)

5:30-5.6 Accounting for governmental fixed assets

(a) All local units shall have and maintain a fixed assets accounting and reporting system that:

1. Establishes and maintains a physical inventory of fixed assets of nonexpendable, tangible property as defined and limited by the U.S. Office of Management and Budget Circular A-87, Cost Principals for State, Local and Indian Governments, incorporated herein by reference, as amended by 62FR45934 (August 29, 1997), and published at www.whitehouse.gov/omb/circulars/a087/a087-all.html. A local unit may establish a capitalization level less than but not in excess of the threshold in Circular A-87, except that the useful life of such property is at least five years;
2. Places a value on all fixed assets whether constructed or acquired through purchase, grant, or gift. Fixed assets acquired after December 31, 1985 shall be valued on the basis of actual cost; prior to that time, they may be valued at cost or estimated historical cost, the basis of which shall be disclosed in the local unit's annual financial statement;
3. Has a subsidiary ledger, consisting of detailed property records for controlling additions, retirements and transfers of fixed assets. Such ledger shall be maintained and reconciled periodically and at the end of every fiscal year with the general ledger control accounts for fixed assets;
4. Provides property management standards for fixed assets that ensures that:

i. Property records are maintained accurately, to reflect a description and source of the property, its ownership, the acquisition cost and date, the percentage of Federal participation in the acquisition, and the location, use, and condition of the property.

ii. Property owned by the Federal government is marked as such.

iii. Periodic physical inventories are taken and reconciled with property records, with any differences being investigated to reflect the cause of difference;

iv. Provides a control system with adequate safeguards against loss, damage, or theft of property, and full investigation and documentation of any losses; and

v. Property is adequately maintained to keep the property in good condition; and

5. Provide a Statement of General Fixed Assets in every annual audit report.

(b) The provisions of this section codify and continue the provisions of Technical Advisory Directive No. 2, issued in April of 1985 and effective January 1, 1986, and as amended by Local Finance Notice CFO 96-13.

5:30-5.7 General ledger accounting systems

(a) All local units shall have and maintain a general ledger for at least the current fund. Nothing shall prohibit a local unit from maintaining a general ledger for other funds.

(b) The general ledger shall be the official permanent financial record of the local unit. It shall provide a summary of all financial transactions as they have been recorded in the books of original entry, using a double entry, self-balancing accounting system with the general ledger facilitating the preparation of the financial statements. The general ledger, together with the books of original entry and supporting subsidiary ledgers shall constitute the complete accounting system.

(c) The provisions of this section codify and continue the provisions of Technical Advisory Directive No. 3, issued in April of 1985 and effective January 1, 1986.

SUBCHAPTER 7. MUNICIPAL BUDGET LOCAL EXAMINATION AND APPROVAL

5:30-7.5 Qualifying for budget local examination

(a) If determined to be eligible for local examination, the chief financial officer shall determine if the municipality meets all of the following criteria:

1. – 4. (No change.)

5. There were no “agreed upon procedural deficiencies” not performed by the registered municipal accountant and noted on Sheet 1a of the Annual Financial Statement; [and]
6. There was no operating deficit for the previous fiscal year[.];
7. **The municipality did not conduct an accelerated tax sale for less than 3 consecutive years.**
8. **The municipality did not conduct a tax levy sale the previous fiscal year and does not plan to conduct one in the current year.**
9. **The current year budget does not contain a budget CAP waiver, per N.J.S.A. 40A:4-45.3(ee); and**
10. **The municipality will not apply for Extraordinary Municipal Aid (N.J.S.A. 52:27D-118.35) in the current year.**

(b –d) (No change.)

SUBCHAPTER 8. FINANCIAL ADMINISTRATION

5:30-8.5 Guidelines concerning receipt and custody of public funds

(a) No officer of a local unit shall accept in receipt of the payment of any [tax,] license, fee or other charge, a check in excess of the amount actually due.

(b) (No change.)

SUBCHAPTER 13. [CAMDEN] FINANCIAL REVIEW BOARDS

5:30-13.1 Definitions

The following words, as used in this subchapter, shall have the following meanings:

“Board” means the financial review board, **created pursuant to N.J.S.A. 52:27D-118.30a** for [the City of Camden] **a municipality**;

[“City”] **“Municipality”** means [the City of Camden] **a local unit whose fiscal condition is determined by the Director, the board and the State Legislature to be distressed and in need of special State oversight.**

5:30-13.2 Powers and responsibilities

(a) The board shall have the power and responsibility to:

1. Approve, implement and enforce a financial plan of the [City of Camden] **municipality**, including monitoring compliance;
2. Approve the annual budget of the [City of Camden] **municipality**;
3. Approve the issuance of debt by the [City of Camden] **municipality**;
4. Approve labor and other contracts entered into by the [City of Camden] **municipality**;

5. Obtain information regarding the financial condition and needs of the [City] **municipality**, including such financial statements and projections, budgetary data, and information and management reports and materials as the board may deem necessary or desirable;
6. Inspect, copy and audit such books and records of the [City] **municipality** as the board shall deem necessary or desirable;
7. Require the appearance of any [City] **municipal** official or employee before the board to answer questions concerning the finances of [City] **the municipality**;
8. Adopt policies and procedures for the conduct of the board's activities; and
9. Provide the Local Finance Board, the Governor and the Legislature with an evaluation of the [City's] **municipality's** financial condition, and recommendations for legislative actions that, in the opinion of the board, are necessary to assure economic redevelopment that will lead to the fiscal recovery of the [City] **municipality**.

5:30-13.3 Financial review board

(a – j) (No change.)

(k) The [City] **municipality** shall provide the board with office space and support facilities as the board may determine to be necessary to conduct its activities.

5:30-13.4 Report

(a) [By January 1, 1999] Upon request by the Director of the Division of Local Government Services, the financial review board shall make and report its recommendations for economic development legislation to the Local Finance Board, the Governor and the Legislature.

(b) [Before June 30, 1999] Upon request by the Director of the Division of Local Government Services, the board shall prepare and file a report of its activities with, and shall provide its assessment of the fiscal condition and progress of the [City] municipality to the Local Finance Board, the Governor and the Legislature.

5:30-13.5 Financial plan preparation

(a) Within 45 days after the appointment of the majority of the members to the board, the mayor of the [City] municipality, in consultation with the [City's] municipality's governing body, shall develop a proposed financial plan covering the three-year period beginning with the [City's] municipality's current fiscal year.

(b) The financial plan shall be composed of the following sections: a budgetary plan, an operations plan, an economic development plan and a capital improvement plan.

1. The budgetary plan shall be general in nature and shall include revenue and spending targets that must be met by the [City] municipality through its annual budget. Spending targets may be set by budgetary line item. If, in the opinion of the board, the [City] municipality does not have an adequate cash management plan or cash flow analysis, the board may

require that the plan include such matters. The board shall ensure that the provisions of the plan comply with all applicable provisions of State law.

2. The operations plan shall identify and describe opportunities to reduce the costs of providing municipal services through general reductions of municipal expenditures; sales of surplus municipal assets; changes in staffing patterns; development of new sources of revenues; implementation of shared services with other government agencies; contracting of services to other providers; modifications in municipal service levels; improved or lower cost operating methods and practices; and any other measures which would serve to reduce the costs of providing municipal services as may be developed by the [City]

municipality or the board.

3. (No change.)

4. The economic development plan shall identify and describe appropriate actions for the economic development of the [City] **municipality** planned by all government agencies, non-profit and private sector organizations engaged in the economic development of the [City] **municipality**.

(c) (No change)

(d) Not later than 120 days after the date that the financial review board has its first meeting, the governing body of the [City] **municipality** shall submit the proposed financial plan to the board for the board's review and approval.

(e) Not more than 60 days after submission of the proposed financial plan or recommendations for modification of an approved financial plan to the board, the board shall determine whether the proposed plan or the proposed plan modification is complete and complies with all necessary statutes and regulations.

1. (No change.)

2. If the board determines that the proposed plan or proposed plan modification is incomplete; that the budget plan therein fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimation; that the proposed plan or proposed plan modification fails to demonstrate that the operations of the [City] **municipality** will be conducted within the cash resources available to the [City] **municipality** according to reasonable and appropriate assumptions and methods of estimation; or that the proposed plan or proposed plan modification fails to comply with the provisions of these rules, the board shall, by resolution, disapprove the plan.

(f) In the event that the governing body of the [City] **municipality** either fails to submit a financial plan as required or fails to submit a financial plan that receives the approval of the board, the board shall, by resolution, formulate and adopt a financial plan to be effective until the governing body of the [City] **municipality** submits a financial plan that is approved by the board.

(g) Once adopted by the board, the provisions of the financial plan shall be binding on the [City] **municipality**.

(h) The [City] **municipality** shall submit a copy of the adopted financial plan to the Local Finance Board.

5:30-13.6 Financial plan modification

(a) Following approval of a financial plan, the board shall examine the financial plan on a regular basis, in consultation with the mayor and governing body of the [City] **municipality**.

(b) The [City] **municipality** shall establish a system for reporting on its progress in complying with the various components of the plan. These reports shall be prepared in a form and with such contents as shall be prescribed by the board.

(c) Reports regarding the [City's] **municipality's** compliance with the budget plan component shall be made monthly.

(d) Reports regarding the [City's] **municipality's** compliance with the other components of the financial plan shall be made quarterly.

(e) In the event that the reports provided to the board indicate that expenditures made by the [City] **municipality** are not consistent with the approved financial plan, the board shall be authorized to issue orders and directives as it believes necessary to ensure compliance with the plan.

(f) If, in the board's judgment, it appears at any time that the amount of revenues which the [City] **municipality** is reasonably likely to realize in cash during any fiscal year will be less than the amount of anticipated revenues in the [City's] **municipality's**

annual budget, or that the expenditures for the [City] **municipality** during any fiscal year will exceed the amount of revenues that the [City] **municipality** is reasonably likely to realize in cash during that fiscal year, the board may direct the [City] **municipality** to submit a financial plan modification to the board describing how the [City] **municipality** shall adjust revenue estimates and reduce expenditures to conform the expenditures of the [City] **municipality** to such revised revenue estimates.

(g) (No change.)

(h) Following approval by the board, the [City] **municipality** shall implement that financial plan modification.

(i) If the [City] **municipality** fails to submit a plan modification within the time period specified by the board, the board, upon adoption of a resolution, may formulate and approve a financial plan modification as may be necessary to achieve the purposes of the board and thereafter direct its implementation by the [City] **municipality**.

5:30-13.7 Annual [city] **municipal** budget approval

(a)–(b) (No change.)

(c) The governing body of the [City] **municipality** shall incorporate any modifications required by the board into the budget and shall then proceed to adopt the budget in accordance with the "Local Budget Law," N.J.S.A. 40A:4-1 et seq.

(d) (No change.)

(e) If the mayor or the governing body, or both, fail to comply with their statutory responsibilities regarding the preparation and adoption of a budget for the [City] **municipality** by the times set forth herein or in the "Local Budget Law," N.J.S.A. 40A:4-1 et seq., the board may request that the Local Finance Board authorize the financial review board to exercise those responsibilities on behalf of the [City] **municipality**.

1. (No change.)
2. Following this hearing and a determination by the Local Finance Board that the mayor or the governing body, or both, failed to comply with their statutory responsibilities, the board shall be authorized to exercise these responsibilities on behalf of the [City] **municipality**.

5:30-13.8 Issuance of debt

(a) The [City] **municipality** shall not authorize the issuance of bonds or notes without the prior approval of the board.

(b) (No change.)

(c) If the board is satisfied that the purpose or purposes to be funded by the proposed ordinance are consistent with the approved financial plan for the [City] **municipality**, it shall approve the proposed ordinance.

(d) Upon receipt of such approval, the governing body of the [City] **municipality** may proceed with the introduction and adoption of the ordinance. The financial review

board must approve any amendments to the ordinance before these amendments are adopted by the governing body of the [City] **municipality**.

(e) The procedures set forth in this section shall be in addition to, and not in lieu of, any procedures which the [City] **municipality** would be required to follow in seeking the issue of debt in accordance with the provisions of the "Municipal Qualified Bond Act," P.L. 1976, c.38 (N.J.S.A. 40A:3-1 et seq.).

5:30-13.9 Emergency appropriations, budget amendments, transfer of appropriation

(a) The governing body of the [City] **municipality** shall adopt no emergency appropriation or other budget amendment for any purpose until the board has reviewed and approved the emergency appropriation or other budget amendment.

(b) In reviewing any proposed emergency appropriation or other budget amendment, the board shall consider such factors as may be appropriate, including, but not limited to, the need for the appropriation and the existence of alternative sources to meet the need for the appropriation. Any request for approval of a proposed emergency appropriation or other budget amendment shall be accompanied by a document prepared by the [City] **municipality** explaining the need for the action.

(c) The governing body of the [City] **municipality** shall neither authorize nor approve a transfer of appropriation or change in text or title of an appropriation until the transfer of appropriation or change in text or title of an appropriation has first been reviewed and approved by the board. Any request for approval of a proposed transfer of

appropriation or change in text or title of an appropriation shall be accompanied by a document prepared by the [City] **municipality** explaining the need for the transfer.

5:30-13.10 Contracts

(a) The governing body shall provide to the chair of the board a summary of all pending resolutions for contracts for goods and services at least five business days before these resolutions are considered by the governing body. Each summary shall include the contract's purpose, vendor, projected costs, justification of the award, and a certification by the [City's] **municipality's** chief financial officer that the performance of the contract will be in accordance with the financial plan.

(b)–(c) (No change.)

(d) Upon receipt of notice of approval of a contract, the [City] **municipality** may proceed to enter into the contract subject to the terms and conditions as may have been established by the board.

5:30-13.11 Orders and directives

(a) The board shall be authorized to issue orders and directives to any officer or employee of the [City] **municipality** that it deems necessary to accomplish the board's purposes; including, but not limited to, timely and satisfactory implementation of the provisions of the approved financial plan of the [City] **municipality**.

(b) (No change.)

(c) No officer or employee of the [City] **municipality** shall:

1.-3. (No change.)

(d) In addition to any penalty or liability under any other law, any officer or employee of the [City] **municipality** who shall violate the provisions of this section shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office by order of the mayor or the board.

(e) In the case of a violation of the provisions of this section by an officer or employee of the [City], **municipality** the mayor shall immediately report to the board all pertinent facts together with a statement of the action taken thereon.

(f) Orders and directives issued by the board may be enforced by a proceeding in lieu of prerogative writ, by an action for injunctive relief in appropriate cases, or by a mandamus action to compel performance by the governing body or by any officer or employee of the [City] **municipality**.